

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 17 of 1987

with

CIVIL APPLICATION No 380 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

SAYRABIBI F MAULAVI W/O MUSTAKKHAN U PATHAN

Appearance:

MR PB BHATT AGP for Appellant

MS SHEHNAZ B SHETHNA for Respondent No. 1

NOTICE NOT RECD BACK for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 08/09/97

ORAL JUDGEMENT

This appeal is directed against the order dated December 1, 1986, passed by the City Civil Court, Ahmedabad below Notice of Motion (Ex.6) in Civil Suit No. 5851 of 1986.

2. The suit is filed by respondent no.1-plaintiff for challenging the order of deportation passed against the respondent no.1. The trial court granted interim injunction restraining the defendants i.e. appellant and respondent no.2 herein, from deporting or prosecuting the plaintiff, respondent no.1 herein, till disposal of the suit on condition that the plaintiff shall report to the Astodia Police Station once in a month and shall not leave Ahmedabad without previous intimation and information to Astodia Police Station on the basis that the decision whether the plaintiff was a foreigner as defined by the Foreigner's Order, 1958 was an issue triable exclusively by the Central Government and therefore, in absence of decision of the competent authority under the Foreigner's Order, 1958, the interim relief as prayed for by the plaintiff is required to be granted.

3. The appeal was admitted in the year 1987 and is pending for final hearing since then. At the hearing of the appeal on the last occasion learned Assistant Government Pleader had prayed for time to ascertain as to what is the latest position and today, learned AGP Shri P.B. Bhatt, states under instructions of Mr. N.R. Saiyed, concerned with the foreigners' table in the office of the Police Commissioner that the suit filed by respondent no.1 herein is already heard by the trial court and that the judgment is being awaited.

4. In view of the above position, no useful purpose will be served by going into merits of the matter at this stage and it would be just and proper to direct that since the suit is pending since 1986, the same may be decided latest by October 15, 1997. It is clarified that the Court has not gone into merits of the case and the trial court shall decide the suit in accordance with law without being influenced by the fact that the order under appeal is not disturbed in the present appeal. The appeal is accordingly disposed of with no order as to costs.

5. Since the appeal is disposed of, the Civil Application does not survive and the same is also disposed of.

Amp/-